

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.

SHARON K. ARTMAN,

Defendant.

COMPLAINT

The United States of America complains and alleges against the defendant, Sharon K. Artman, as follows:

1. This is a civil action in which the United States seeks to recover, with interest, erroneous refunds of federal income, social security and Medicare taxes totaling \$5,710.70 that were issued to the defendant, Sharon K. Artman, as a result of the misrepresentations and fraudulent statements that Artman made on her 2002-2004 Form 1040 tax returns.

Jurisdiction and Venue

2. This civil action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and IRC (26 U.S.C.) § 7402.

4. Defendant Sharon K. Artman resides in Largo, Florida, within the jurisdiction of this Court.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396.

6. On or about March 2, 2005, February 28, 2005, and February 21, 2005, Artman signed and filed IRS Form 1040 federal income tax returns for the 2002, 2003, and 2004 tax years, respectively.

7. Implementing the false and fraudulent tax scheme promoted by Peter Eric Hendrickson, Artman's self-prepared tax returns falsely stated that she had no (1) wages, tips or salaries; (2) adjusted gross income; or (3) taxable income during each of the 2002-2004 tax years.

8. The Hendrickson scheme is based on the false and frivolous argument that the terms "wages" and "income" for purposes of the federal income tax and for federal tax withholding are limited to government employees. Hendrickson's theories about the supposed narrow application of federal income-tax laws (including his arguments that wages are not income, and that only federal workers are required to pay income taxes) have been uniformly and repeatedly rejected by the federal courts. As one court recently said, the claim that wages are not income "has been rejected as many times as it has been asserted." *Abdo v. United States*, 234 F. Supp.2d 553, 563 (M.D. N.C. 2002), *affirmed*, 63 Fed. Appx. 163 (4th Cir. 2003). Other courts long ago rejected Hendrickson's claim that wages and income for federal income tax and withholding purposes mean only wages and income of government employees. *See e.g., United States v. Latham*, 754 F.2d 747, 750 (7th Cir. 1985) (the argument "that under 26 U.S.C. § 3401(c) the category of 'employee' does not include privately employed wage earners is a preposterous reading of the statute. It is obvious that within the context of both statutes the word "includes"

is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others.”); *McKinley v. United States*, 1992 WL 330407 (S.D. Ohio, Sept. 3, 1992) (“The plaintiffs assert that only federal officers, federal employees, elected officials or corporate officers are ‘employees’ who are considered to be taxpayers under the Internal Revenue Code. The plaintiffs argue, in essence, that the explicit inclusion of federal officers and employees within the definition of ‘employee’ for the purposes of the I.R.C. operates to exclude all others from the definition. Plaintiffs’ exhibit D-1 in their motion to affirm status determinations calls the Court’s attention to their position on this issue by citing to T.R. 31.3401(C)-1, which explicitly includes the federal government within the definition of employer. However, the plaintiffs’ interpretation of the law comes from a misunderstanding of the law, and has been rejected by the federal courts. *E.g.*, *United States v. Latham*, 754 F.2d 747, 750 (7th Cir.1985); *Peth v. Breitzmann* [85-1 USTC ¶ 9321], 611 F. Supp. 50, 53 (D.C.Wis.1985). In fact, the term ‘employee’ as used in the I.R.C. does include private wage earners. *E.g.*, *Latham* [85- 1 USTC ¶ 9180], 754 F.2d at 750.”).

9. Contrary to her representations on her false Forms 4852, Artman *did* receive IRS Form W-2 Wage and Tax Statements for the 2002, 2003, and 2004 tax years from her employer, the Pinellas County School Board, that correctly reported her wages and the federal income, social security and Medicare taxes withheld from those wages as follows:

<u>Tax Year</u>	<u>Wages</u>	<u>Income Tax</u>	<u>Social Security Tax</u>	<u>Medicare Tax</u>
2002	\$17,110	\$ 94	\$1,060	\$248
2003	\$18,354	\$439	\$1,179	\$275
2004	\$21,695	\$740	\$1,354	\$316

Artman did not attach the W-2 forms that she received from her employer to her tax returns or otherwise submit them to the IRS. Instead, she attached an IRS Form 4852 ("Substitute for Form W-2, Wage and Tax Statement, etc.") to each of her 2002, 2003, and 2004 tax returns, signed each Form 4852 under penalty of perjury, and falsely and fraudulently stated on each Form 4852 that the Pinnellas County School Board had paid her no (a) wages; (b) social security wages; or (3) Medicare wages during 2002, 2003, and 2004.

10. On or April 1, 2005, based on Artman's false and fraudulent representations described above, the Treasury Department issued the following tax refunds to Artman:

<u>Tax Year</u>	<u>Amount of tax refund</u>
2002	\$1,403.48
2003	\$1,895.23
2004	<u>\$2,411.99</u>
Total:	\$5,710.70

These are the amounts of the withheld federal income, social security and Medicare taxes listed on the Forms 4852 that Artman filed with her 2002, 2003, and 2004 tax returns.

12. Artman obtained the three tax refunds which totaled \$5,170.70 by fraud and by misrepresentation of material facts, as described above.

13. Because Artman misrepresented, on her 2002, 2003, and 2004 Form 1040 tax returns, that she received no wages, salaries or other income during 2002, 2003, and 2004, and claimed credit for the federal income taxes that were withheld from her wages or salary for the 2002-2004 tax years, the IRS should not have issued the refunds, and therefore the issuance of the refunds for each of the 2002 (\$1,403.48), 2003 (\$1,895.23), and 2004 (\$2,411.99) tax years

was an error.

14. As a result of the erroneous refunds, the United States is entitled to judgment against Artman in the total amount of \$5,710.70, plus interest from April 1, 2005, to the date of payment as provided by law.

WHEREFORE, the United States prays as follows:

A. That this Court determine that the United States erroneously issued refunds of federal income, social security and Medicare taxes to Sharon K. Artman for the 2002, 2003, and 2004 tax years in the total amount of \$5,710.70;

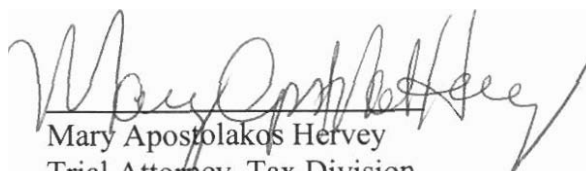
B. That judgment be entered on behalf of the United States and against Sharon K. Artman in the amount of \$5,710.70, plus interest thereon as allowed by IRC § 6602 from April 1, 2005;

C. That the United States of America be awarded its reasonable attorneys' fees and costs incurred in this action; and

D. That the Court grant the United States such other and further relief as the Court may deem to be just and proper.

Dated this 14th day of April, 2006.

PAUL I. PEREZ
United States Attorney

A handwritten signature in black ink, appearing to read "Mary Apostolakos Hervey", is written over a horizontal line.

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